

SENATE BILL REPORT

ESB 6357

As Amended by House, March 4, 2008

Title: An act relating to service of process in domestic violence cases.

Brief Description: Regarding service of process in domestic violence cases.

Sponsors: Senators Kohl-Welles, Keiser, Regala, Kline, Murray, Fairley, McDermott, Hargrove, McCaslin, Tom, Marr and Rasmussen.

Brief History:

Committee Activity: Judiciary:1/16/08, 1/22/08 [DP].

Passed Senate: 2/12/08, 45-0.

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.

Signed by Senators Kline, Chair; Tom, Vice Chair; McCaslin, Ranking Minority Member; Carrell, Hargrove, McDermott, Roach and Weinstein.

Staff: Dawn Noel (786-7472)

Background: In domestic violence cases, a court is authorized to provide protective relief to a petitioner, such as restraining the respondent from committing domestic violence and excluding the respondent from the residence, workplace, or school of the petitioner.

When a person petitions for relief from domestic violence, a hearing is required to be held on the petition within 14 days of the date of the order. The petitioner must personally serve the respondent with this order no less than five days before the hearing date. If timely personal service cannot be made, the court must set a new hearing date. The court must either require additional attempts to obtain personal service or permit service by newspaper publication or mail. If the court permits service by publication or mail, the court must set the hearing no later than 24 days from the date of the order. The court may issue a temporary order for protection pending the hearing.

Following service by publication or mail, if the respondent fails to appear at the hearing, the court may issue a permanent order providing protective relief to the petitioner. The order must be personally served upon the respondent, or served by publication or mail if the court previously authorized such service for purposes of the hearing.

Rebecca Jane Griego, a University of Washington employee, had obtained a temporary protection order against the man who eventually shot her and then himself. Ms. Griego

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returned to court numerous times because the man could not be served. Therefore, she did not have the opportunity for a permanent protection order hearing. Some courts allow for service by publication or mail if service of process fails after an unspecified number of times.

Summary of Engrossed Bill: If timely personal service of the order setting the hearing cannot be made, the court must set a new hearing date and either require one additional attempt to obtain personal service or permit service by publication or mail. The court must not require more than two attempts to obtain personal service, and must permit service by publication or mail, unless the petitioner requests additional time to attempt personal service. These rules also apply if one seeks to modify a protection order. The requirements for service of notice for a modification hearing are aligned with the requirements for service of notice for a hearing on a petition for relief from domestic violence.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: What happened to Rebecca Griego by her former intimate partner is a tragedy. She and her sister went through the process they believed they needed to do, but they were unable to serve the man who killed Rebecca. We must provide assistance to people experiencing threats and abuse, help give them peace of mind. Many women have trouble serving protection orders. They have to return to court over and over again to have someone served. Immigrants face even more difficulty understanding the court system. Victims live in fear over not having a permanent protection order. The difficulty of having to return to court may lead them to drop the protection order. This bill provides clarity and uniformity on how many times someone must return to court. This bill takes away the ability of an evasive respondent to abuse the system.

OTHER: We are in favor of this bill. However, there are issues concerning the re-alignment of parties when the court finds out that the petitioner is the abuser, and regarding unsubstantiated allegations in domestic violence cases.

Persons Testifying: PRO: Senator Kohl-Welles, prime sponsor; Maria Lee, Broadview Emergency Shelter; Grace Huang, Washington State Coalition Against Domestic Violence.

OTHER: Thomas J. Paulson, Washington State Residences.

House Amendment(s): Designates the bill as the Rebecca Jane Griego Act.